

**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the claim amendments and following remarks.

**Status of Claims**

Claims 1-3, 5, 6, and 8-20 are currently pending in the application of which claims 1, 6, 8 and 15 are independent. Claims 4 and 7 are canceled herein. Claims 1-20 were rejected.

**Summary of the Office Action**

Claims 1-3 and 5 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,704,412 to Harris et al. (hereinafter "Harris").

Claims 6-20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0025134 to Armistead (hereinafter "Armistead").

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Harris in view of Armistead.

**Drawings**

The indication that the drawings submitted on June 24, 2003 have been approved is noted with appreciation.

**Claim Rejection Under 35 U.S.C. §102**

The test for determining if a reference anticipates a claim, for purposes of a rejection under 35 U.S.C. § 102, is whether the reference discloses all the elements of the claimed

combination, or the mechanical equivalents thereof functioning in substantially the same way to produce substantially the same results. As noted by the Court of Appeals for the Federal Circuit in *Lindemann Maschinenfabrick GmbH v. American Hoist and Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984), in evaluating the sufficiency of an anticipation rejection under 35 U.S.C. § 102, the Court stated:

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Therefore, if the cited reference does not disclose each and every element of the claimed invention, then the cited reference fails to anticipate the claimed invention and, thus, the claimed invention is distinguishable over the cited reference.

- **Claims 1-3 and 5**

Claims 1-3 and 5 were rejected under 35 U.S.C. §102(e) as being anticipated by Harris. The features of claim 4 have been combined with claim 1. The rejection of claim 1 correctly states that Harris fails to teach the features of claim 4. However, the rejection alleges Armistead discloses these features in paragraphs 8, 20, and 26. This assertion is traversed.

Claim 1 recites,

converting first circuit-switched voice data received from the circuit-switched network on the first channel into packet-switched voice data;

converting the packet-switched voice data into second circuit-switched voice data for any packet designating the remote answering node as a destination node; and

routing the second circuit-switched data to the remote destination node across the circuit-switched network on the second channel.

Armistead fails to teach or suggest these features. In particular, Armistead fails to teach or suggest converting circuit-switched data to packet-switched data, and then converting the packet-switched data back to circuit-switched data if the destination node is remote to the gateway.

Armistead discloses performance-based switching that determines whether to use a circuit-switched network path or a packet-switched network path for routing calls based on a QoS or other factors for each path. See paragraphs 31-39. In paragraph 8, 20, and 26, Armistead discloses a system that is operable to convert between circuit-switched voice data and packets. The operation of Armistead, such as described with respect to figure 8, includes determining figures of merit for the circuit or packet-switched network, and then attempting a connection through the selected network. See paragraph 41. Thus, the connection is established in either the circuit or packet-switched network, but this does not include converting from receiving a call through a circuit-switched network, converting the voice data for the call to packets, and then converting the packets back to circuit-switched voice data if the destination is remote from the gateway. Accordingly, the features of claim 1 described above are not taught or suggested by Harris in view of Armistead, and claims 1-3 and 5 are allowable.

- **Claims 6-20**

Claims 6-20 were rejected under 35 U.S.C. §102(e) as being anticipated by Armistead. Independent claims 6, 8, and 15 recite features similar to claim 1 described above.

Claim 6 recites, "converting the packet-switched voice data into second circuit-switched voice data if the second node is remote to the gateway; and routing the second circuit-switched voice data to the remote second node across the circuit-switched network."

Claim 8 recites, "wherein the gateway converts the packet-switched voice data to second circuit-switched voice data for any packet designating a remote second node, wherein the gateway communicates the second circuit-switched voice data to the remote second node using a second channel of the circuit-switched network."

Claim 15 recites, "wherein the gateway conversion means converts the received packetized voice data to second circuit-switched voice data if the destination node is determined to be remote from the gateway conversion means."

These features are not taught by Armistead for the reasons stated with respect to claim 1. Thus, claims 6 and 8-20 are allowable. Claim 7 is canceled.

#### **Claim Rejections Under 35 U.S.C. §103(a)**

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007):

"Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, "[a]ll claim limitations must be considered" because "all words in a claim

must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

(A) Combining prior art elements according to known methods to yield predictable results; (B) Simple substitution of one known element for another to obtain predictable results; (C) Use of known technique to improve similar devices (methods, or products) in the same way; (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “Obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S.398, 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), “[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness.”

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

- **Claim 4**

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Harris in view of Armistead. Claim 4 is canceled herein, and thus, the rejection is moot.

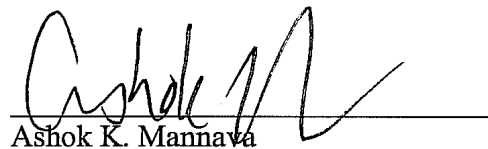
**Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited. Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to Deposit Account No. 08-2025.

Respectfully submitted,

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By



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